

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)
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)
JILL S. AMORUSO,)
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)
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Plaintiff,)
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v.)
)
UNITED SERVICES AUTOMOBILE,)
ASSOCIATION d/b/a USAA,)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CIVIL ACTION NO. 2022-CP-08-01971

ORDER

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Jan 23 2024

SC Court of Appeals

On July 13, 2023, this Court heard cross-motions for summary judgment. The plaintiff moved for summary judgment on the ground USAA was obligated to make an offer of underinsurance motorist (UIM) coverage on a 2016 Montana and a 2007 Adams. The 2016 Montana was a camper, and the 2007 Adams was a horse trailer. USAA moved for summary judgment on the basis it was not obligated to offer UIM coverage on non-self-propelled vehicles such as horse trailers and campers because they were not “motor vehicles” as defined by section 38-77-30(9) of the South Carolina Code. USAA’s motion was supported by interrogatory answers and photographs of the camper and horse trailer.

The underlying facts are not in dispute. On January 7, 2017, the plaintiff was in an accident with Kaira Miller. At the time of the accident the plaintiff was driving a 2014 Nissan. At this time the Nissan and five other vehicles were insured with USAA. Of the total of six vehicles, four vehicles had UIM coverage in addition to statutorily mandated coverages. Two of the vehicles – a camper and horse trailer referenced as a 2016 Montana and a 2007 Adams – were insured for property damage only. Neither of these vehicles had liability, uninsured motorist (UM) or UIM coverage and on neither of these vehicles did USAA offer UIM coverage. Neither of these vehicles

were self-propelled. Instead, they were towed behind a transporting vehicle. On neither the 2016 Montana nor the 2007 Adams did the plaintiff pay a premium for liability, UM or UIM coverage.

Because the parties have filed cross motions for summary judgment this Court is presented with a question of law. *Meier v. Burnsed*, 882 S.E. 2d 863 (S.C. App. 2022); *Progressive Direct v. Groves*, 882 S. E. 2d 464 (S.C. 2022); *South Carolina Public Interest Foundation v. Calhoun County Council*, 854 S.E. 2d 836 (S.C. 2021); *USAA v. Pickens*, 862 S.E. 2d 442 (S.C. 2021) Additionally, where, as here, the court is presented with a question of statutory construction a question of law is involved. *Davis v. South Carolina Educational Credit*, 882 S.E. 2d 754 (S.C. 2023); *Flowers v. Giep*, 871 S. E. 2d 604 (S.C. App. 2021); *Ballard v. Newberry County*, 854 S.E. 2d 848 (S.C. App. 2021); *First Citizens Bank v. Taylor*, 847 S.E. 2d 249 (S. C. App. 2020)

Section 38-77-160 of the South Carolina Code requires insurers to offer UIM coverage "up to the limits of the insured liability coverage..." Section 38-77-140 requires liability coverage on a "motor vehicle." Section 38-77-30 (9) defines "motor vehicle" as every "self-propelled vehicle" including "trailers and semi-trailers designed for use with these vehicles..." It is undisputed neither the Montana nor the Adams were self-propelled vehicles. Requiring liability, UM coverage and offers of UIM coverage on non-self-propelled vehicles such as the Montana and the Adams will vastly transform this statutory scheme and cannot have been the intent of the legislature.

The specific question which with this court is presented is whether the Montana and the Adams, neither of which were self-propelled vehicles, fall within the definition of "motor vehicle" in section 38-77-30 (9) of the South Carolina Code. To fall within the definition of "motor vehicle" a vehicle must be self-propelled and designed for use upon a highway. Trailers and semi-trailers are included within the definition of "motor vehicle" in section 38-77-30 (9). In other words,

trailers and semi-trailers which are designed for use with motor vehicles are included within or are a part of a self-propelled vehicle such that there is one vehicle.

The word "includes" is ordinarily a word of enlargement and not of limitation. *Baker v. Chavis*, 410 S.E. 2d 600, 603 (S.C. App. 1991) Applying this definition to section 38-77-30 (9), the only reasonable statutory construction is that "trailers and semitrailers" are within the category of "self-propelled vehicles" such that a trailer or semitrailer being towed behind a self-propelled vehicle is one vehicle. Any construction otherwise would mean a trailer or semitrailer being towed behind a self-propelled vehicle is a separate vehicle requiring its own separate insurance. Such a construction of section 38-77-30 (9) would reach an absurd result and courts are not to construe statutes to reach an absurd result. *Buff v. South Carolina Department of Transportation*, 505 S.E. 2d 360 (S. C. App. 1998) – courts will reject an interpretation leading to a result so plainly absurd it could not have possibly been intended, or would defeat plain legislative intention. The interpretation of a term set forth in a statute should support the statute and should not lead to an absurd result. *Miller v. Robinson Trucking*, 510 S.E. 2d 431 (S.C. App. 1998); *Ogburn-Mathews v. Loblolly Partners*, 505 S.E. 2d 598 (S.C. App. 1998)

Case law also supports this Court's conclusion the 2016 Montana and the 2007 Adams are not "motor vehicles" within the definition of "motor vehicle" in section 38-77-30 (9) such that USAA was not required to make an offer of UIM coverage on these vehicles. In *Anderson v. State Farm Mutual Automobile Insurance Company*, 442 S.E. 2d 179 (S. C. 1994), the plaintiff argued a farm tractor was a motor vehicle. The Court considered section 38-77-30 (7), now section 38-77-30 (9), and held a farm tractor does not come within the definition of motor vehicle because although it could be incidentally used on a highway it was not designed for use upon a highway. This reasoning applies to the plaintiff's camper and horse trailer.

Miller v. Aiken, 613 S.E. 2d 364 (S. C. 2005), is dispositive. In that case the Supreme Court considered whether, as here, an auto insurer which provided only non-liability collision and other named perils coverage was required offer UIM coverage. In *Miller*, as here, the plaintiff argued an automobile insurer which provided only collision coverage was required to offer UIM coverage. The Supreme Court rejected this argument and stated "an automobile insurer providing only collision coverage to its insured should not be required to make a meaningful offer of UIM." 613 S.E. 2d at 367. The Supreme Court went on to state "requiring an insurer providing only collision coverage to make a meaningful offer of UIM would lead to a result so plainly absurd that it could not possibly have been intended by the legislature." 613 S. E. 2d at 367. The plaintiff's own motion for summary judgment cites this case.

More recently, in *Jack's Custom Cycles v. South Department of Revenue*, 885 S.E. 2d 433 (S.C. App. 2023), the Court defined "motor vehicle" as a vehicle which is self-propelled and a vehicle "operated by power developed within itself..." The Court cited the American Heritage College dictionary definition of a motor vehicle as a "self-propelled wheeled conveyance, such as a car or truck that does not run on rails." The horse trailer and camper in question do not come within this definition nor the statutory definition.

For these reasons the court grants USAA's motion for summary judgment and denies the plaintiff's motion for summary judgment. All of which is so ORDERED.

Jennifer B. McCoy, Presiding Judge
9th Judicial Circuit

Dated:



Berkeley Common Pleas

Case Caption: Jill S Amoruso VS United Services Automobile Association ,
defendant, et al
Case Number: 2022CP0801971
Type: Order/Other

So Ordered

s/Jennifer B. McCoy #2764